

Message Text

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ACTION ARA-14

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L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
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E.O. 11652: N/A
TAGS: SOPN, SHUM, PINT, PN
SUBJECT: DRAFT REVISIONS OF CENSORSHIP LAW ANNOUNCED

REF: PANAMA 8760

BEGIN UNCLASSIFIED SUMMARY: THE LEGISLATIVE COMMISSION AND THE JOURNALISTS' UNION HAVE WORKED OUT DRAFT LAWS TO REVISE PANAMA'S CENSORSHIP LAW, LAW 343. THE DRAFTS, TO BE TAKEN UNDER CONSIDERATION BY "OFFICIAL SECTORS," MUST BE APPROVED BY THE NATIONAL COUNCIL OF LEGISLATION IN ORDER TO TAKE EFFECT. END SUMMARY.

1. ON DECEMBER 21, AFTER SEVERAL SESSIONS BETWEEN THE LEGISLATIVE COMMISSION AND REPRESENTATIVES OF THE JOURNALISTS' UNION, OF RADIO AND PRESS ASSOCIATIONS, AND OF NATIONAL RADIO AND TELEVISION, AND AFTER TWO DAY-LONG MEETINGS OF THE LEGISLATIVE COMMISSION, TWO DRAFT LAWS REVISING PANAMA'S CENSORSHIP LAW, DECREE LAW 343, WERE PUBLISHED. ONE, "CONCERNING THE CRIMES OF LIBEL AND INSULT," CONSISTS OF 36 ARTICLES, AND THE OTHER, "FOR THE PURPOSE OF
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PRESCRIBING STANDARDS IN RELATION TO THE SOCIAL COMMUNICATIONS MEDIA AND PUBLICATION OF PRINTED MATERIAL," HAS 21.

2. WHILE THE DRAFT LAWS DO RETAIN NUMEROUS PROVISIONS OF LAW 343, THEY ALSO MAKE SIGNIFICANT CHANGES, ADDITIONS AND DELETIONS. THE DRAFT LAWS OMIT LAW 343'S

ARTICLE 1, WHICH STATES THAT THE EXERCISE OF FREEDOM OF EXPRESSION "GIVES RISE TO RESPONSIBILITIES" ESTABLISHED IN LAW 343. THEY ALSO ELIMINATE LAW 343'S DISTINCTION BETWEEN "GRAVE" AND "MINOR" INSULTS AND BETWEEN "COVERT" AND "EQUIVOCAL" CALUMNY OR INSULT. MANY CHANGES ARE MADE IN THE PENALTIES SPECIFIED FOR VIOLATION OF AVRIOUS PROVISIONS; FOR EXAMPLE:

--FOR LACK OF COMPLIANCE WITH VARIOUS NOTIFICATION REQUIREMENTS, THE DRAFT LAWS INCREASE FINES FROM THE \$50-\$500 OF LAW 343 TO \$100-\$1,000, DELETE PUNISHMENT BY "EQUIVALENT DETENTION," AND ADD AS POSSIBLE PENALTIES "PUBLIC WARNING" AND CLOSURE OF THE MEDIA INVOLVED.

--FOR LACK OF COMPLIANCE WITH REQUIREMENTS FOR PUBLICATION OF CLARIFICATIONS OR CORRECTIONS, THE DRAFT LAWS CHANGE THE PENALTIES FROM THE \$50 FINE OR EQUIVALENT DETENTION OF LAW 343, TO IMPRISONMENT OF FROM 10 DAYS TO 6 MONTHS OR A FINE OF \$50-\$2,500.

3. OTHER CHANGES:

--THE DRAFT LAWS REQUIRE THAT THE OWNER OF ANY COMMUNICATIONS MEDIA BY PANAMANIAN (LAW 343 REQUIRED THAT THE "DIRECTOR IN CHARGE" OF ANY PERIODICAL BE PANAMANIAN).
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--THE DRAFT LAWS REQUIRE SUBMISSION OF COPIES OF PUBBICATIONS THE THE NATIONAL LIBRARY (LAW 343 REQUIRED SUBMISSION OF COPIES TO THE LIBRARY BUT ALSO TO THE MINSTRY OF INTERIOR AND JUSTICE).

--THE DRAFT LAWY INCLUDE DETAILED PROVISIONS REGARDING LEGAL PROCEEDINGS AND LAWSUIT INVOLVING LIBEL AND INSULT.

--THE DRAFT LAWS DELETE LAW 343'S PROHIBITIONS AGAINST PUBLICATION OF CLASSIFIED OFFICIAL DOCUMENTS.

--THE DRAFT LAWS REQUIRE THAT THE MEDIA KZEP THE ORIGINAL TEXTS OF PUBLICATIONS AND BROADCASTS FOR 30 DAYS (ALW 343 DID NOT SET A TIME LIMIT ON THIS REQUIREMENT).

-- WITH REGARD TO LIBEL OR INSULT PUBLISHED OR BROADCAST ABROAD, THE DRAFT LAWS PROVIDE THAT SUCH ACTIONS WILL BE CONSIDERED TO HAVE OCCURRED IN PANAMA AND ELIMINATE LAW 343'S PROSISO WHICH SPECIFIES THAT THE PUBLICATION OR BRAODCAST INVOLVED HAD TO HAVE BEEN

CIRCULATED OR RECEIVED IN PANAMA.

4. ARTICLES 6 AND 14 OF THE DRAFT LAW ON LIBEL AND INSULT (BELOW) ARE VARIATIONS ON SIMILAR PROVISIONS IN LAW 343. ARTICLE 13 (ALSO BELOW) IS AN ADDITION. ARTICLE 6. LIBEL OR INSULT PUBLISHED IN FOREIGN PUBLICATIONS WILL BE CONSIDERED COMMITTED IN THE REPUBLIC, AND THOSE WHO FROM THE TERRITORY OF PANAMA SENT THE ARTICLES OR GAVE THE ORDER FOR THEIR PUBLICATION CAN BE USED. ARTICLE 13. FOR THE PERSON ACCUSED OF INSULT, HE WILL BE PERMITTED EVIDENCE ABOUT THE TRUTH OF HIS CHARGES ONLY WHEN THE CHARGES ARE DIRECTED AGAINST PUBLIC SERVANTS OR PUBLIC OR PRIVATE CORPORATIONS CONCERNING ACTS RELATING TO THE EXERCISE OF THEIR LIMITED OFFICIAL USE

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FUNCTIONS, AS LONG AS THE CHARGES DO NOT REFER TO THE CONJUGAL OR PRIVATE LIFE OF THE ONE OFFENDED. ARTICLE 14. WHEN LIBEL OR INSULT IS PUBLISHED IN AN IMPERSONAL MANNER, IN THE FORM, "IT IS DAID," "IT IS AFFIRMED," "RUMOR HAS IT," OR OTHER SIMILAR FORMS, IT WILL BE CONSIDERED, FOR THE PURPOSES OF THE CASE, THAT SUCH STATEMENTS ARE EXPRESSED PERSONALLY BY THE ONE PUBLISHING THEM.

5. THE FULL TEXTS OF THE DRAFT LAWS ARE CONTAINED IN "LA ESTRELLA" OF DEC. 21. ACCORDING TO NEWS REPORTS, THESE DRAFT LAWS WILL NEXT BE CONSIDERED BY "OFFICIAL SECTORS." BEFORE ACTUALLY TAKING EFFECT, THE LAWS WOULD HAVE TO BE APPROVED BY THE NATIONAL COUNCIL OF LEGISLATION, BUT NO TIMETABLE HAS BEEN INDICATED. THESE AND OTHER REFORMS RESULT, IN PART, FROM PRESSURES BY VISITING U.S. SENATORS. END UNCLASSIFIED.

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6. COMMENT: WE PREFER TO WAIT FOR PROMULGATION OF THE NEW LAWS BEFORE DOING AN ANALYSIS OF THEIR IMPACT. AT FIRST BLUSH, HOWEVER, THE PROPOSED CHANGES DO NOT SEEM EARTH-SHAKING.
JORDEN

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